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10 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
11 IN AND FOR THE COUNTY OF KING

12 NYLYSHA STARVION BELAFON
13 ARADON, CAREY ALLEN HAYES, A.H., a
14 minor, A.L., a minor,

15 Plaintiffs,

16 v.

17 SNOHOMISH COUNTY and its
18 SNOHOMISH COUNTY SUPERIOR
19 COURT, and the SNOHOMISH COUNTY
20 VOLUNTEER GUARDIAN AD LITEM
21 PROGRAM; SUSAN WALKER and JOHN
22 DOE WALKER, individually and the marital
23 community; KIRSTEN HAUGEN and JOHN
24 DOE HAUGEN, individually and the marital
25 community; and, SARA DI VITTORIO and
26 JOHN DOE DI VITTORIO, individually and
27 the martial community,

28 Defendants.

29 CASE NO. 20-2-15374-5 SEA

30 COMPLAINT FOR DAMAGES

31 Plaintiffs, through Patrick A. Trudell, P.S., WSBA #11363, Scott Bowen, P.S.,
32 WSBA #10605, Kornfeld, Trudell, Bowen & Lingenbrink, PLLC, and Michael Withey,
33 WSBA #4787, Law Office of Michael Withey, allege the following:

34 COMPLAINT FOR DAMAGES - 1

35 KORNFIELD TRUDELL BOWEN
36 & LINGENBRINK, PLLC
37 3724 Lake Washington Blvd NE
38 Kirkland, Washington 98033
39 425.822-2200 Telephone
40 425.822-0783 Fax

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2 I. JURISDICTION AND VENUE
3

4 1.1 This action is brought pursuant to Article I, Section 3 of the Washington
5 State Constitution, and pursuant to 42 U.S.C. § 1983, and the Fourth and Fourteenth
6 Amendments of the Constitution of the United States.
7

8 1.2 The jurisdiction of the court is pursuant to Article IV, Section 6 of the
9 Washington State Constitution.
10

11 1.3 Venue is proper at the King County Superior Court pursuant to RCW
12 36.01.050 as it is the nearest judicial district to Snohomish County.
13

14 1.4 A Claim for Damages form was filed with Snohomish County on June
15 19, 2020.
16

17 1.5 The related case of *Dependency of A.E.T.H.*, Cause No: 20-7-00809-3
18 SEA, has been assigned to a judge of this court and involves the same parties, relevant facts,
19 legal issues and controlling law as in that case as stated by the Washington State Court of
20 Appeals at 9 Wn. App. 2d. 502, 509, 446 P.3d 667, 672 (Div. One 2019). Judicial efficiency
21 justifies assigning this case to the judge in the related case.
22

23 II. PARTIES
24

25 2.1 Plaintiff Nylysha Starvion Belafon Aradon (Aradon) is a resident of
26 Snohomish County, Washington. Aradon is the mother of A.H., born on February 24, 2013.
27 She has been separated from A.H. with limited visitation since February 28, 2013. Aradon is
28 also the mother of A.L. born January 6, 2016. A.L. resides with Aradon and Hayes. Aradon
29 will petition the court for appointment of a Guardian Ad Litem to articulate the best interest of
A.H.

1 2.2 Plaintiff Carey Allen Hayes (Hayes) is a resident of Snohomish County,
2 Washington. Hayes is the father of A.H. He has been separated from his daughter with limited
3 visitation since February 28, 2013. Hayes is also the father of A.L.

4 2.3 Plaintiff A.H. is the daughter of plaintiffs Aradon and Hayes, who was
5 born on February 24, 2013. She has been separated from her parents with limited visitation
6 since four days after birth, and from her brother since his birth. The separation of A.H. from
7 her parents led to the dependency and termination action giving rise to this case.
8

9 2.4 Plaintiff A.L. is the son of Aradon and Hayes, and the younger brother
10 of A.H. Although A.L. resides with his parents, he has been unable to know his sister and bond
11 with her since his birth and continuing.
12

13 2.5 Defendant Snohomish County through the Snohomish County Superior
14 Court and its VGAL Program (Court Program) recruits, trains, supervises and maintains
15 volunteer Guardian Ad Litem's who investigate, file reports and make recommendations in
16 parental dependency and termination cases. The Court Program often acts as a second GAL in
17 a Snohomish County parental dependency and termination case.
18

19 2.6 Defendant Susan Walker (Walker) is a citizen of Washington and was a
20 Snohomish County VGAL Program Coordinator at all relevant times in this action. She is a
21 defendant in her individual capacity and as an employee of Snohomish County. When the
22 initial VGAL in this action died in January of 2015 Walker was appointed by the court as the
23 GAL for A.H. All acts and omissions of Susan Walker alleged herein were performed on
24 behalf of Susan Walker individually, and on behalf of her marital community with John Doe
25 Walker, and on behalf of Snohomish County.
26

27 2.7 Defendant Kirsten Haugen (Haugen) was at all relevant times a staff
28 attorney for the Snohomish County Superior Court VGAL Program. She is a defendant in her
29

individual capacity and as an employee of Snohomish County. Haugen represented Walker in the termination action. Haugen engaged in and conducted discovery matters with Sara Di Vittorio. All acts and omissions of Kirsten Haugen were performed on behalf of Kirsten Haugen individually, on behalf of her marital community with John Doe Haugen and on behalf of Snohomish County.

2.8 Defendant Sara Di Vittorio (Di Vittorio) was at all relevant times the Deputy Snohomish County Prosecutor who represented the Snohomish County Superior Court. She is a defendant in her individual capacity and as an employee of Snohomish County. Di Vittorio provided legal advice to the VGAL Program, engaged in discovery matters on behalf of the Court Program, and represented the Court Program in court. All acts and omissions of Sara Di Vittorio were performed on behalf of Sarah Di Vittorio individually, on behalf of her marital community with John Doe Di Vittorio and on behalf of Snohomish County.

III. STATEMENT OF FACTS

3.1 Nylysha Aradon is a recovering drug addict who entered a medically supervised drug rehabilitation methadone program in October 2012.

3.2 In February 2013 Aradon remained on the methadone program while she was expecting a child in February.

3.3 On February 24, 2013 A.H. was born to Aradon and Hayes.

3.4 Four days after the birth of A.H., the Washington Department of Social and Health Services (DSS) removed A.H. from Aradon's custody and placed her with a foster parent where she has resided since her removal.

3.5 On February 28, 2013 DSHS filed a dependency petition in Snohomish County placing A.H. within the Snohomish County Superior Court dependency process.

1 3.6 On May 23, 2013 A.H. was found dependent by Snohomish County
2 Superior Court Presiding Judge Linda Krese. Judge Krese ordered the parents to engage in
3 services and gave each parent four hours of supervised visitation per week.

4 3.7 Successful parental visitation is essential in navigating through the
5 dependency process.

6 3.8 Judge Krese appointed Denise T. Estabrook (Brook) as the Volunteer
7 Guardian ad Litem (VGAL), along with the VGAL Court Program. Court Program staff
8 members are Snohomish County employees.

9 3.9 During her time in the case Brook committed breaches of her duty of
10 care.

11 3.10 Although Program Coordinator Susan Walker knew Brook was giving
12 adoption assurance to the foster mother, in violation of program protocol, Walker took no
13 action to halt the assurance practice, to reprimand Brook, or inform the parties in the
14 termination action.

15 3.11 Brook communicated with the foster mother using her personal email
16 rather than the county email supplied by the Court Program.

17 3.12 Brook's use of her personal email for Court Program purposes rendered
18 the emails unavailable for discovery.

19 3.13 Court Program coordinator Walker knew that Brook used her personal
20 email for case related communication but took no action to stop the practice or provide the
21 communications to the parties.

22 3.14 Brook emailed the foster mother unredacted department reports with
23 confidential information.

1 3.15 Brook called Court Program coordinator Walker and told her she had
2 been caught by DSHS sharing confidential information with multiple parties. Despite the fact
3 sharing of this confidential information violated Court Program rules, Walker took no action,
4 and chose not to contact DSHS to investigate the specifics of Brook's unauthorized conduct.
5

6 3.16 Aradon desired to attend A.H.'s medical appointments, as such
7 attendance assists in parent reunification, but the Court Program withheld and concealed the
8 identity of A.H.'s medical providers.
9

10 3.17 At the foster mother's request the Court Program did not allow Aradon
11 to attend any of her daughter's medical appointments.
12

13 3.18 Aradon and Hayes were not permitted to know the name of A.H.'s
14 doctor, the clinic where she treated, or the pharmacy where A.H.'s prescriptions were filled.
15

16 3.19 VGAL Brook urged the foster mother to make a restrictive food list for
17 A.H. during visits. The foster mother created a restrictive food list saying it was based on
18 allergy concerns of A.H.'s doctor.
19

20 3.20 In fact the restrictive food list for A.H. was false. A.H. was never
21 considered medically fragile with allergy problems.
22

23 3.21 The Court Program supported the foster mother's false restrictive food
24 list. Court Program Walker claimed the food list was made in conjunction with medical staff
25 because Brook was a retired nurse.
26

27 3.22 The Court Program pushed the restrictive food diet for A.H. knowing
28 there was no support for the restricted food list in A.H.'s medical records.
29

30 3.23 The Court Program asked to have the parents' visitation terminated if
31 the parents failed to adhere to the restrictive list. At the Court Program's urging the restrictive
32

1 food list was included in the court's parental visitation order. This was done after the Court
2 Program learned A.H. had no food allergies.
3

4 3.24 Brook died in January of 2015. In February 2015 the superior court
5 appointed Brook's Court Program coordinator, Susan Walker, as Brook's replacement.
6

7 3.25 After her appointment Walker breached the standard of care of a GAL.
8 During her seven month tenure as GAL in A.H.'s case, Walker contacted one service provider
9 for one parent, observed one parent during one visit with A.H., chose not to speak with either
10 parent, failed to contact any of A.H.'s medical providers and chose not to inform either parent
11 that A.H. no longer had a restricted diet.
12

13 3.26 On August 26, 2015 A.H.'s six day parental termination trial started with
14 Snohomish County Superior Court Judge Anita Farris presiding. GAL Walker testified at the
15 trial.
16

17 3.27 Judge Farris found GAL Walker's termination trial testimony to be
18 "uninformed, inconsistent, dishonest, and biased." *Dependency of A.E.T.H.*, 9 Wn. App. 2d.
19 502, 509, 446 P.3d 667, 672 (Div. One 2019).
20

21 3.28 GAL Walker testified at the termination trial that she could not recall if
22 VGAL Brook sent the parents' criminal records to the foster parent's adoption agency. In
23 Walker's cross examination Aradon's attorney introduced an email obtained from the VGAL
24 program during discovery that referenced an attachment appearing to be criminal records.
25 Judge Farris ordered the VGAL program to produce the attachment.
26

27 3.29 The attachment revealed that GAL Walker was the person who
28 requested and sent the criminal records to VGAL Brook. VGAL Brook then illegally sent the
29 criminal records to the foster parent's adoption agency.
30

1 3.30 Judge Farris determined GAL Walker was deliberately untruthful about
2 her knowledge of the email attachment.
3

4 3.31 Shortly after the termination trial, Aradon's attorney filed a formal
5 complaint against GAL Walker.
6

7 3.32 In October of 2015 Aradon's attorneys filed a motion to remove Walker
8 as GAL based on her misconduct.
9

10 3.33 Following the filing of the Walker removal motion, Sara Di Vittorio, the
11 lead counsel with the civil division of the Snohomish County Prosecutor's Office, wrote a
12 threatening letter on behalf of the Court Program to Aradon's attorneys. In the letter Di
13 Vittorio demanded they "cease disclosing" confidential information about VGALs in court
14 filings, and in conversations with other members of the legal community, or the Court Program
15 would "consider further legal steps."
16

17 3.34 Kristen Haugen, a staff attorney for the VGAL program, who also
18 represented Walker, met with Di Vittorio and other lawyers and administrators for the superior
19 court and discussed Aradon's motion to remove Walker.
20

21 3.35 Di Vittorio advised Haugen to oppose Aradon's motion to remove
22 Walker by filing a motion to strike and redact based on CR 11 and mischaracterization of a
23 local confidentiality rule. Di Vittorio's assistance to Haugen, who represented a party adverse
24 to the parents of A.H., was not disclosed to the parents' attorneys or the court.
25

26 3.36 In February of 2016 Judge Farris held hearings on discovery and GAL
27 misconduct.
28

29 3.37 Judge Farris found VGAL staff attorney Haugen offered untruthful
testimony during the hearings.

1 3.38 Judge Farris found VGAL program attorneys engaged in abusive
 2 litigation tactics for improper purposes during the parental termination proceedings. In this
 3 regard, VGAL Brook's entire hard copy file mysteriously disappeared without a trace or any
 4 explanation during post-trial proceedings about VGAL misconduct during the parental
 5 termination process.

6 3.39 During the parental termination proceedings the VGAL program
 7 engaged in document dumps, destroyed or withheld case-related emails, and made false or
 8 misleading statements to cover up misconduct.

9 3.40 The head administrator for the Snohomish County Superior Court
 10 advised attorney Haugen to place blanket objections on any discovery request, and to refuse to
 11 produce documents prior to a discovery conference at VGAL offices.

12 3.41 Judge Farris found the way the VGAL program was operated, denied
 13 the parties the due process right to an impartial judge.

14 3.42 On May 17, 2017 Judge Farris recused herself finding that as a
 15 Snohomish County Superior Court Judge she cannot be impartial because there is no ethical
 16 boundary, protocol or firewall separating the superior court and its judges from the Court
 17 Program and the termination action.

18 3.43 Despite recusing herself Judge Farris entered an order terminating the
 19 parental relationship between A.H. and her parents.

20 3.44 In *Dependency of AETH*, the Washington State Court of Appeals
 21 reversed the termination order of Judge Farris. (See Paragraph 3.27).

22 3.45 Defendants violated the appearance of fairness doctrine and the
 23 procedural and substantive due process rights of A.H.'s parents because the dependency, the
 24

1 termination trial and the post-trial proceedings occurred in a biased tribunal where the superior
2 court advocated against the parents.
3

4 3.46 Defendants are collaterally estopped to deny the findings of fact stated
5 in the *Dependency of AETH* opinion for all causes of actions stated in this Complaint.

6 3.47 Defendants are collaterally estopped to deny the holdings of the court of
7 appeals in its opinion that defendants violated the substantive and procedural due process rights
8 of plaintiffs. (See Paragraphs 3.27).

9 3.48 The Washington State Court of Appeals ruling meets all of the criteria for
10 the application of collateral estoppel in this matter, including that:

11 3.48.1 The factual and legal issues decided by the court of appeals are
12 identical with the ones presented in this case. The court of appeals, in finding that
13 defendants violated the due process rights of plaintiffs applied the same legal standard as is
14 presented in the 42 USC Section 1983 claims and other claims in this case brought by
15 plaintiffs;

16 3.48.2 The prior adjudication ended in a final judgment on the merits
17 in that the Washington State Supreme Court denied review of the court of appeals opinion
18 and the case was remanded to this court;

19 3.48.3 Defendants were parties, in privity with parties to the prior
20 adjudication; and/or were witnesses in the case and were fully acquainted with the
21 proceedings' character and object and were interested in its results;

22 3.48.4 Application of the collateral estoppel doctrine in this case is
23 just and does not serve an injustice.

1 3.49 Snohomish County's VGAL Court Program was a party and Snohomish
2 County was in privity with the VGAL Court Program in *Dependency of AETH*.

4 IV. FIRST CAUSE OF ACTION

5 SNOHOMISH COUNTY

6 NEGIGENT ADMINISTRATION OF THE PARENTAL

7 DEPENDENCY AND TERMINATION PROGRAM

9 Plaintiffs incorporate by reference Paragraph 1.1 through 3.49.

10 4.1 In 1977 the Washington State Legislature passed the Juvenile Court Act
11 in cases relating to the dependency of a child and the termination of the parent-child
12 relationship.

13 4.2 In the act the legislature declares the family unit is a fundamental
14 resource of American life which should be nurtured.

16 4.3 Jurisdiction for a dependency/termination action lies in the superior
17 court in the county where the alleged dependent child resides.

18 4.4 In a dependency/termination action the county superior court must
19 appoint a Guardian ad Litem (GAL) for a child. This requirement is satisfied if the child is
20 represented by an independent attorney.

22 4.5 A Guardian ad Litem is a person appointed by the county superior court
23 to represent the best interests of the child. The GAL's investigation and report are intended to
24 ensure the county superior court's decision is in the best interest of the child.

25 4.6 The GAL's role is to investigate and collect relevant information about
26 the child's situation, bring forward any changes in circumstances, and make recommendations
27 based on an independent investigation regarding the best interests of the child.

1 4.7 A GAL must maintain independence, objectivity and the appearance of
2 fairness in dealing with parties and professionals, both in and out of the courtroom.
3

4 4.8 The Juvenile Court Act allows county superior courts to establish and
5 maintain a Guardian ad Litem program. RCW 13.34.030(12). Snohomish County established
6 a Volunteer Guardian ad Litem (VGAL) program. The program is coordinated by the
7 Snohomish County Superior Court Administrator. Pursuant to its program the Snohomish
8 County Superior Court Administrator and the Chief Judge are administratively responsible for
9 the recruitment, training and supervision of VGALs.
10

11 4.9 The Snohomish County VGAL program has developed into a Court
12 Program that has approximately seven program coordinators who train, supervise and support
13 VGALs.
14

15 4.10 The program is run by Snohomish County employees who manage the
16 program with two Snohomish County staff attorneys.
17

18 4.11 Although reunification and preservation of families is what the
19 dependency system is designed to do, the Snohomish County Court Program fails to adequately
20 train, supervise, and maintain its VGALs. The Court Program fails to create any separation or
21 division between the VGAL program and the Snohomish County Superior Court Juvenile
22 division that hears dependency and parental termination cases.
23

24 4.12 Snohomish County through its VGAL Court Program breached its
25 statutory duties to plaintiffs Aradon, Hayes, A.H. and A.L. These breaches include:
26

27 4.12.1 Failing to establish, train and maintain a VGAL program in
28 accordance with Washington statutes, court rules, and GAL rules.
29

30 4.12.2 Failing to properly and fairly investigate the suitability of
31 Aradon and Hayes to regain custody of their daughter.
32

1 4.12.3 Failing to properly and fairly investigate the suitability of A.H.
2 to return to her parents.
3

4 4.12.4 Failing to properly report to the court facts revealed during the
5 seven plus years of dependency issues such as Brook's sharing of confidential information
6 (Paragraph 3.15), Court Program withholding and concealing the identity of A.H.'s medical
7 providers (Paragraphs 3.16 - 3.17), and the false restrictive food list (Paragraphs 3.19-3.21)
8

9 4.12.5 Failing to supervise, investigate and terminate offending
10 VGALs to insure they comply with the statutory mandate of RCW 13.34 and standards of
11 dependency case management and ethics in a dependency and termination case.
12

13 4.13 These breaches proximately caused Aradon and Hayes to lose the care,
14 custody and control of their daughter for seven years and continuing.
15

16 4.14 These breaches proximately caused A.H. to be away from her parents
17 and brother during her dependency and termination case.
18

19 4.15 Plaintiffs Aradon, Hayes, A.H. and A.L. seek money damages as
20 articulated below and at the time of trial, including, but not limited to damages for the loss of
21 the care, custody, and consortium of A.H. since four days after birth and continuing, and A.H.
22 and A.L.'s consortium losses.
23

V. SECOND CAUSE OF ACTION

SNOHOMISH COUNTY AND SUSAN WALKER

NEGLIGENT INVESTIGATION

25 Plaintiffs incorporate Paragraph 1.1 through 4.15.
26

27 5.1 RCW 13.34 emphasizes the paramount importance of the bond between
28 parent and child. The statutory goal is to reunify families to the extent possible consistent with
29 the safety of the child.

1 5.2 A family court GAL must collect relevant information about the best
2 interests of the child and make recommendations based on an independent investigation of the
3 child's best interests.

4 5.3 Under established Washington law, case workers, including GALS,
5 must carry out their statutory duty, follow procedures dictated by statute and court rules, and
6 act in the best interests of the child. GALs have a duty to act in good faith.
7

8 5.4 Susan Walker breached her GAL duties in several regards, including but
9 not limited to her training and supervision of Brook.

10 5.5 After Brook's death, Walker assumed the primary Snohomish County
11 GAL duties in A.H.'s case.

12 5.6 Walker did little to fulfill her statutory duties (Paragraph 3.25).

13 5.7 Walker breached her GAL duties, through her actions and inactions in
14 A.H.'s case.

15 5.8 Walker's breaches of duty as a Snohomish County VGAL supervisor
16 and as A.H.'s GAL, proximately caused A.H.'s dependency to be prolonged and prejudiced.

17 5.9 As a result of Walker's breaches of her VGAL supervisor and GAL
18 duties, plaintiffs have sustained damages, as articulated below and at the time of trial,
19 including, but not limited to, the loss of the parent-child relationship and family consortium for
20 seven years and continuing.

1 VI. THIRD CAUSE OF ACTION
2

3 SNOHOMISH COUNTY AND SUSAN WALKER
4

5 NEGLIGENCE INFILCTION OF EMOTIONAL DISTRESS
6

7 Plaintiffs incorporate by reference Paragraphs 1.1 and 5.9.
8

9 6.1 The relationship of Snohomish County, Susan Walker and A.H. began
10 shortly after DSHS's removal of A.H. from her parents (Paragraph 3.8).
11

12 6.2 The relationship between Snohomish County, Susan Walker and A.H.
13 was in the nature of a Guardian and Ward.
14

15 6.3 Snohomish County and Susan Walker knew or should have known that
16 a dependency action extending beyond seven years where A.H. was removed from her parents
17 would cause A.H. past, present and future emotional distress.
18

19 6.4 Emotional distress is a reasonable reaction by A.H. as a result of her
20 removal from her parents and brother during the dependency action extending over seven
21 years.
22

23 6.5 The combination of Snohomish County's failure to operate its VGAL
24 program in accordance with Washington statutory and rule requirements, and Susan Walker's
25 VGAL supervision and GAL actions and inactions in A.H.'s dependency case, negligently
26 caused A.H. past, present and future emotional distress (Paragraphs 4.12.1, 4.12.2, 4.12.3,
27 4.12.4 and 4.12.5).
28

29 6.6 As a result of the negligence of Snohomish County and Walker, A.H.
30 seeks money damages as articulated below and at the time of trial, including but not limited to
31 the cost of psychological counseling and treatment for past, present and future emotional
32 distress.
33

1 VII. FOURTH CAUSE OF ACTION
2

3 SNOHOMISH COUNTY
4

5 VIOLATION OF THE FOURTEENTH AMENDMENT – MONELL CLAIM
6

7 Plaintiffs incorporate Paragraph 1.1 through 6.6
8

9 7.1 The Snohomish County Superior Court VGAL program became
10 enmeshed and intertwined with the superior court. The VGAL program, the Snohomish
11 County Superior Court and court employees became one such that VGAL Brook and GAL
12 Walker became joint participants with and one and the same as the Snohomish County Superior
13 Court.
14

15 7.2 The VGAL program withheld and destroyed evidence in Aradon's case.
16 The VGAL program and its attorney Haugen made misleading and false statements in A.H.'s
17 dependency and termination case.
18

19 7.3 The Snohomish County Superior Court through its VGAL program's
20 negligent training and supervision created a custom, pattern and policy that prevented a fair
21 dependency and termination adjudication in A.H.'s case. The Chief Judge and the head Court
22 Administrator knew or should have known that inadequate VGAL training and supervision,
23 and failure to separate the VGAL program from the court, was substantially certain to result in
24 procedural and substantive due process violations in a dependency case.
25

26 7.4 Snohomish County breached its duties and obligations to plaintiffs
27 Aradon, Hayes, A.H. and A.L. These breaches include failure to establish, implement and
28 maintain a separate VGAL program from the court and follow the mandate of RCW 13.34.
29 These breaches allowed the VGAL program to become the Court Program.

30 7.5 The practice of failing to separate the VGAL program from the court
31 existed for years before A.H.'s case. It became so well settled that it constituted a custom and
32

use with the force of law in Snohomish County Superior Court dependency and termination actions.

7.6 As a result of lack of training and supervision, the VGALs and the Court Program in Aradon's case worked against plaintiffs as both violated the due process rights of plaintiffs in striving for termination of their parental rights. Both misrepresented facts, withheld information, participated in the destruction of evidence and violated court rules thereby violating the due process rights of plaintiffs.

7.7 The actions of the Snohomish County Superior Court VGAL program deprived plaintiffs Aradon, Hayes, A.H. and A.L. of their Fourteenth Amendment due process rights including: A.H.'s Fourth Amendment right against prolonged seizure; the right of plaintiff parents to the care, custody and control of their daughter A.H. for seven years and continuing; the right of A.H. to have a continuing relationship with her parents and brother; and the right of A.L. to have a continuing sibling relationship with his sister.

7.8 Plaintiffs seek money damages as articulated below and at the time of trial.

VIII. FIFTH CAUSE OF ACTION

SNOHOMISH COUNTY AND SUSAN WALKER

VIOLATION OF FOURTEENTH AND FOURTH AMENDMENTS

Plaintiffs incorporate Paragraph 1.1 through 7.8.

8.1 Snohomish County has a custom, policy or practice of failing to properly train, supervise and maintain its VGAL Court Program.

8.2 Defendant Snohomish County either knew or should have known of this uncontrolled VGAL power as it had permeated the Snohomish County Superior Court VGAL program.

1 8.3 Walker as VGAL supervisor and as GAL acting under color of state law
2 violated the due process rights of Aradon, Hayes and A.H.

3 8.4 The making of the restrictive food list was dishonest, against GAL rules
4 and calculated to harm A.H.'s parents' chances of maintaining parental custody and control of
5 their daughter.

6 8.5 Walker knew of the fake food restriction list and knew it could be used
7 to harm the parents' chance of gaining the custody and control of their daughter.

8 8.6 When Brook died, and Walker assumed the GAL position in A.H.'s
9 case, Walker continued Brook's efforts to work against A.H.'s parents.

10 8.7 Walker knew continuing restrictions on visitation and a long
11 dependency phase would result in a higher likelihood of failure for A.H.'s parents.

12 8.8 At the termination trial in A.H.'s case Walker's sworn testimony was
13 found to be uninformed, inconsistent, dishonest and biased (paragraph 3.27).

14 8.9 At all relevant times, Walker was acting under color of law as she
15 actively worked for the termination of the parental rights of A.H.

16 8.10 At all relevant times Walker knew that participating in making a false
17 and misleading restrictive food list document, and actively working in favor of parental
18 termination through inconsistent, dishonest and biased testimony at the termination trial in
19 A.H.'s case, would likely lead to the termination of the parental rights to A.H.

20 8.11 It was well established federal law during the time of Walker's
21 involvement in A.H.'s case that deliberately fabricating evidence in a dependency and
22 termination case violates the Due Process clause of the Fourteenth Amendment.

23 8.12 Walker's wrongful conduct as the supervising VGAL in A.H.'s case and
24 then as the GAL was motivated by evil intent to foster parental termination. Walker performed

her duties with reckless or callous indifference to the Fourth Amendment and Fourteenth Amendment rights of A.H. and the Fourteenth Amendment rights of A.H. Aradon and Hayes.

8.13 A.H.'s Fourth Amendment rights were violated by the prolonged dependency action where A.H. was continually removed from her parents for over seven years.

8.14 The procedural due process rights of Aradon, Hayes and A.H. were violated by the fabricated restrictive food list, Walker's uninformed, inconsistent and dishonest testimony at the termination trial and failing to properly investigate the facts in A.H.'s termination case.

8.15 The substantive due process rights of Aradon, Hayes, A.H. and A.L. were violated through the prolonged dependency phase in their case as Aradon, Hayes, A.H. and A.L. were denied parental care, custody, control and consortium for over seven years.

8.16 By virtue of the above described acts and omissions, defendants Snohomish County and Walker are jointly and severally liable for compensatory damages as alleged below and proven at the time of trial, and defendant Walker is liable for punitive damages for the constitutional violations alleged in this cause of action.

IX. SIXTH CAUSE OF ACTION

SNOHOMISH COUNTY, KIRSTEN HAUGEN and SARA DI VITTORIO

ABUSE OF PROCESS – FOURTH AMENDMENT (Prolonged Seizure)

FOURTEENTH AMENDMENT (Procedural Due Process and Substantive Due Process)

Plaintiffs incorporate by reference Paragraphs 1.1 through 8.16.

9.1 After the Snohomish County Superior Court established its volunteer Guardian Ad Litem program following the Juvenile Court Act of 1977 the VGAL program (Court Program) became well established at the Snohomish County Superior Court. Entering

1 the 21st century the Court Program had become an arm of the Snohomish County Superior
 2 Court.
 3

4 9.2 At the time of A.H.'s dependency and termination action it was typical
 5 for the court to appoint the Court Program as a second GAL. Court Program staff attorneys
 6 took an active role in litigation advancing the Court Program's position by filing motions, cross
 7 examining witnesses, raising objections, presenting argument, and adding provisions to court
 8 orders before they were signed.
 9

10 9.3 Additionally, when appointed, Court Program staff attorneys handled all
 11 aspects of VGAL and GAL discovery. Snohomish County Superior Court judges and senior
 12 court administration staff became directly involved in the workings of the Court Program.
 13 There was no screening mechanism to avoid improper *ex parte* contact regarding ongoing
 14 cases.
 15

16 9.4 When the Court Program sought legal advice it consulted with several
 17 civil deputy attorneys at the Snohomish County Prosecutor's Office. The Deputy Prosecuting
 18 Attorney involved in A.H.'s case was Sara Di Vittorio who advised the judges *ex parte* on legal
 19 issues, and represented the Court Program in A.H.'s case. Staff attorney Kirsten Haugen
 20 appeared in A.H.'s case as the attorney for VGAL Brooks and then GAL Walker.
 21

22 9.5 At the time of A.H.'s dependency and termination case the Court
 23 Program had become so intertwined with the Snohomish County Superior Court that it had
 24 become an enforcement arm within the court which protected the VGAL Court Program in
 25 dependency and termination cases.
 26

27 9.6 The Court Program without any restriction from the Snohomish County
 28 Superior Court implemented discovery policies that protected VGALs from having to produce
 29 documents thought to be sensitive by the Court Program. (Paragraph 3.38).

COMPLAINT FOR DAMAGES - 20

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1 9.7 To thwart discovery in A.H.'s case the Court Program through attorney
2 Haugen discriminated against ABC LAW Group by implementing a policy making production
3 of documents more expensive than production charges for other attorneys. This included the
4 production of repetitive documents, requiring Ballout and Stebbins to get discovery by
5 traveling to Court Program offices and be supervised and monitored by Court Program staff.
6

7 9.8 The Court Program had a vindictive component to it which was
8 exhibited after Ballout and Stebbins filed a formal complaint against GAL Walker.
9

10 9.9 Following the filing of the complaint the Court Program responded by
11 contacting the Office of Public Defense with the goal of jeopardizing the funding of ABC Law
12 Group which depends on the Office of Public Defense for funds.
13

14 9.10 Following the filing of the grievance complaint, attorney Di Vittorio
15 wrote Ballout and Stebbins a letter threatening legal action for what she alleged were
16 confidentiality violations.
17

18 9.11 There was no adequate justification for the Court Program's conduct
19 outside of punishing plaintiffs and their attorneys for revealing improprieties within the Court
20 Program.
21

22 9.12 Di Vittorio's letter was a non-judicial act outside of any proper court or
23 litigation act.
24

25 9.13 The Court Program had an ulterior motive in A.H.'s dependency and
26 termination case. The ulterior motive became protecting the discovery of Court Program
27 improprieties, and punishing plaintiff parents and their lawyers for opposing the Court
Program.
28

29 9.14 To actualize the ulterior motive of protecting the Court Program, Staff
Attorney Haugen and Deputy Prosecutor Di Vittorio misused the power of the process of the
COMPLAINT FOR DAMAGES - 21

1 court. Attorney Haugen hid relevant discovery, delayed production of documents, and
2 misrepresented and failed to disclose relevant information sought by Aradon and Hayes in
3 discovery.
4

5 9.15 Deputy Prosecutor Di Vittorio engaged in retaliation, assisted in
6 discovery violations, and satellite litigation abuse with the ulterior motive of protecting the
7 Court Program from detection of VGAL improprieties.
8

9 9.16 The discovery violations and abuse of process had the effect of
10 prolonging A.H.'s dependency and the removal of A.H. from her parents and A.L. in violation
11 of the Fourteenth Amendment due process rights of Aradon, Hayes, A.H. and A.L., and the
12 Fourth Amendment rights of A.H.
13

14 9.17 It was well established federal law when the above described abuse of
15 process occurred that it is a violation of due process to misuse the judicial process in a
16 dependency and termination case, to hide relevant facts, to retaliate against parents, and
17 prolong the dependency phase of a dependency and termination case.
18

19 9.18 The abuse of process conduct by attorneys Haugen and Di Vittorio was
20 outside of proper litigation in A.H.'s dependency and termination case, was done with evil
21 intent or with reckless indifference to the Fourth Amendment rights of A.H. and Fourteenth
22 Amendment procedural and substantive due process rights of Aradon, Hayes, A.H. and A.L.
23

24 9.19 By virtue of the above described acts and omissions defendants
25 Snohomish County, Kirsten Haugen and Sara Di Vittorio are jointly and severally liable for
26 compensatory damages as alleged below and proven at the time of trial; attorney Kirsten
27 Haugen is liable for punitive damages; and attorney Sara Di Vittorio is liable for punitive
28 damages.
29

1 X. SEVENTH CAUSE OF ACTION
2

3 ALL DEFENDANTS
4

5 OUTRAGE
6

7 Plaintiffs incorporate Paragraphs 1.1 through 9.19 and allege as follows:
8

9 10.1 The above described conduct of defendants in violation of plaintiffs
10 Fourth Amendment (A.H.) and Fourteenth Amendment (Aradon, Hayes, A.H. and A.L.) rights
11 constitutes the tort of outrage.
12

13 10.2 The above described conduct engaged in by defendants was inflicted
14 intentionally or recklessly and beyond mere negligence.
15

16 10.3 The above described conduct of all defendants in A.H.'s dependency
17 and termination case has been outrageous and extreme. The conduct of all defendants has been
18 so outrageous in character and extreme in nature as to go beyond all possible bounds of
19 decency, and would be regarded as atrocious and utterly intolerable in a civilized community.
20

21 10.4 The conduct of all defendants has resulted in emotional distress
22 damages to Aradon, Hayes, A.H. and A.L. All plaintiffs will need long-term psychological
23 counselling and treatment to deal with the seven year separation of parents and child.
24

25 XI. PRAYER FOR RELIEF
26

27 Plaintiffs pray for relief as follows:
28

29 1. Under the First Cause of Action plaintiffs seek special and general
1 damages, past, present and future as allowed by Washington law against Snohomish County in
2 amounts proven at the time of trial;
3

4 2. Under the Second Cause of Action plaintiffs seek special and general
5 damages, past, present and future as allowed by Washington law against Snohomish County
6 and Susan Walker in amounts proven at the time of trial;
7

8 COMPLAINT FOR DAMAGES - 23
9

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1 3. Under the Third Cause of Action plaintiffs seek special damages that
2 include the cost of all psychological and mental health treatment for A.H., and general
3 damages, past, present and future as allowed by Washington law against Snohomish County
4 and Susan Walker in amounts proven at the time of trial;

5 4. Under the Fourth Cause of Action plaintiffs seek special and general
6 damages, past, present and future as allowed by Washington law against Snohomish County in
7 amounts proven at the time of trial;

8 5. Under the Fifth Cause of Action plaintiffs seek special and general
9 damages, past, present and future as allowed by Washington law against Snohomish County
10 and Susan Walker in amounts proven at the time of trial, and punitive damages against
11 defendant Walker in an amount found appropriate by the jury;

12 6. Under the Sixth Cause of Action, plaintiffs seek special and general
13 damages, past, present and future, as allowed by Washington law, against Snohomish County
14 and Defendants Haugen and Di Vittorio in amounts proven at the time of trial, and punitive
15 damages against defendant Haugen and defendant Di Vittorio in amounts found appropriate by
16 the jury;

17 7. Under the Seventh Cause of Action plaintiffs seek special and general
18 damages past, present and future, as allowed by Washington law, against all defendants in
19 amounts proven at the time of trial;

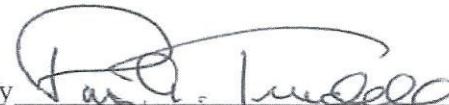
20 8. For plaintiffs' costs, expenses and attorney's fees pursuant to all
21 applicable statutory authority including but not limited to 28 U.S.C. § 1920, 42 U.S.C. § 1988
22 and RCW 4.84.010;

23 9. For such other relief the court deems just and equitable;

1
2 10. For permission to amend their pleadings to conform to the proof offered
3 at trial.
4

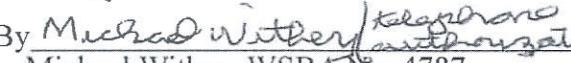
DATED this 16 day of October, 2020.

5 KORNFELD TRUDELL BOWEN &
6 LINGENBRINK PLLC
7

8 By 
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10 Attorneys for Plaintiffs
11

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